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OPTV/MEYERTONS

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DEBRA HENSGEN and LUDOVIC PIERRE

Appeal 2009-011122
Application 09/765,965
Technology Center 2400

Before JOSEPH F. RUGGIERO, MARC S. HOFF, and CARLA M.
KIRVAK, *Administrative Patent Judges*.

RUGGIERO, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Final Rejection of claims 1-5 and 7-56, which are all of the pending claims. Claim 6 has been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Appeal Brief (filed Sep. 10, 2008), the Answer

(mailed Dec. 3, 2008), and the Reply Brief (filed Feb. 3, 2009). Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellants could have made but chose not to make in the Briefs have not been considered and are deemed to be waived (*see* 37 C.F.R. § 41.37(c)(1)(vii)).

Appellants' Invention

Appellants' invention relates to interactive video delivery mediums such as interactive television and, particularly, to the presentation of at least one of a plurality of perspectives of a broadcast program to a viewer. The plurality of perspectives are automatically recorded in a storage device and alternate recorded perspectives can be played for the viewer without interrupting the recording of the broadcast. *See generally* Spec. 1:14-16 and 6:2-8.

Claim 1 is illustrative of the invention and reads as follows:

1. A method for processing broadcasts, comprising:

receiving a broadcast of a program, the broadcast containing a plurality of perspectives of the program, each of the perspectives providing a view of a given scene from a different angle;

presenting a first perspective of the plurality of perspectives to a viewer, said first perspective comprising a first perspective of a portion of the program;

storing at least one of the plurality of perspectives;

providing input from a viewer which indicates a desire to replay the portion of the program from a second perspective of the plurality of perspectives;

identifying in the first perspective a first point in time in the program which corresponds to the beginning of said portion, responsive to the input;

automatically determining a second point in time in the second perspective, wherein the second point in time comprises an approximation of the first point in time in the program;

presenting the portion of the program from the second perspective to the viewer beginning at the second point in time; and

periodically storing broadcast meta-data corresponding to each of one or more of the received plurality of perspectives of the program, said meta-data comprising at least time and/or offset information for each of the corresponding one or more plurality of perspectives.

The Examiner's Rejections

The Examiner relies on the following prior art references to show unpatentability:

| | | |
|------------------|-----------------|---------------------------------------|
| Jain (Jain '471) | US 5,729,471 | Mar. 17, 1998 ¹ |
| Jain (Jain '375) | US 6,144,375 | Nov. 7, 2000 (filed Aug. 14, 1998) |
| Abecassis | US 6,289,165 B1 | Sep. 11, 2001 (filed Feb. 9, 1999) |

Claims 1-5, 7-22, and 25-56 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Jain '375.²

¹ Jain '471 is incorporated by reference in Jain '375

² The Examiner has withdrawn the 35 U.S.C. § 112, first paragraph, rejection of claims 1, 15, 20, 31, and 45 (Ans. 11).

Claims 23 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jain '375 in view of Abecassis.

ANALYSIS

35 U.S.C. § 102(e) REJECTION

Claims 1-5, 7, 9, 10, 15, 17, 20-22, 26, 29-35, 39, 40, 43-46, 48, 49, 51, 53, and 54

Appellants' arguments with respect to the Examiner's anticipation rejection of independent claims 1, 15, 20, 31, and 45 initially focus on the alleged failure of Jain '375 to disclose the storing of metadata corresponding to a received plurality of perspectives of a broadcast program wherein the metadata "comprises at least time and/or offset information" for each of the plurality of perspectives. According to Appellants (App. Br. 13-14), Jain '375 discloses the use of various filtering criteria in developing a multi-media database, but not the use of time and offset information. In a related argument (App. Br. 15-16), Appellants contend that, while Jain '375 discloses the use of a time clock, the time clock refers to the time of an event, such as a football program, not the time of each perspective of a program.

Appellants' arguments are not persuasive in convincing us of any error in the Examiner stated position. We find that ample evidence exists in at least the portions of Jain '375 cited by the Examiner at pages 3-5 of the Answer, and the additional citations in the "**Response to Argument**" portion of the Answer at pages 11-13, to support the Examiner's position

that Jain '375 discloses the storing of time information for each of a plurality of perspectives of a program.³

As disclosed by Jain '375, the multiple perspective interactive (MPI) system includes a video database in which each camera sequence is stored along with its metadata (col. 7, ll. 35-43). It is apparent that this metadata includes time information since Jain '375 discloses that a video window can display video data streams from different camera perspectives, events are synchronized and organized along a system time line, and a "virtual replay" button enables a viewer to view a selected replay event from a "best" perspective (Fig. 7, col. 22, ll. 60-67, col. 24, ll. 50-53, and col. 25, ll. 13-21). Similarly, Jain '375 discloses that a viewer can use VCR-type controls to fast forward or reverse between events organized on a time line, as well as view the events from different camera angle perspectives (Fig. 7, col. 25, l. 57-col. 26, l. 6, col. 26, ll. 26-67, and col. 27, ll. 14-31).

We further find to be unpersuasive Appellants' arguments (App. Br. 16-17; Reply Br. 7-12) that Jain' 375 has no disclosure of relating first and second points in time in first and second viewing perspectives as claimed. As previously discussed, Jain '375 discloses enabling a viewer to replay selected events along a time line from different camera perspectives. We agree with the Examiner (Ans. 12-13) that an ordinarily skilled artisan would recognize and appreciate that Jain '375's disclosed replay feature would require the determination of a point in time in a second perspective (second point, as claimed) that corresponds to a first point in time of a first

³ The language in each of the independent claims 1, 15, 20, 31, and 45 recites the time and offset feature in alternative format ("at least time and/or offset information").

perspective (beginning point, as claimed). We also find that, while the language of independent claims 1, 15, 20, 31, and 45 recites that the second point in the second perspective is an “approximation” of the first point in the first perspective, the exact camera perspective synchronization provided by the digitally determined time line of Jain ‘375 is the best case of an “approximation.”

We further find that the disclosure of Jain ‘471, incorporated by reference in Jain ‘375, and discussed by the Examiner at page 12 of the Answer, provides further evidence in support of the Examiner’s position. For example, Figures 17-21 of Jain ‘471, and the accompanying description at column 33, line 30 through column 34, line 54, disclose the acquisition and storing of time data associated with a plurality of cameras and their perspectives.

Lastly, although Appellants, at pages 5-7 of the Reply Brief, draw attention to the claimed requirement of a viewer input indicating a desire to replay portions of a program from a different perspective, we find no error in the Examiner’s stated position. For example, the afore-mentioned Jain ‘471 discloses the ability of the described system to enable a viewer to select and replay events in a scene from different camera perspectives (col. 7, ll. 63-66). Similarly, we find multiple portions of Jain ‘375 discuss that a viewer can select to replay program events from different camera perspectives (col. 25, ll. 16-21 and col. 26, ll. 26-28 and 60-64).

In view of the above discussion, we find that the Examiner did not err in concluding that all of the limitations of independent claims 1, 15, 20, 31, and 45 are present in the disclosure of Jain ‘375. Accordingly, the

Examiner's 35 U.S.C. § 102(e) rejection of independent claims 1, 15, 20, 31, and 45, as well as dependent claims 2-5, 7, 9, 10, 17, 21-24, 26, 29, 30, 32-35, 39, 40, 43, 44, 46, 48, 49, 51, 53, 54 not separately argued by Appellants, is sustained.

Claims 8, 11-14, 16, 18, 19, 25, 27, 28, 36-38, 41, 42, 47, 50, 52, 55, and 56

We do not sustain the Examiner's anticipation rejection of claims 8, 11-14, 16, 18, 19, 25, 27, 28, 36-38, 41, 42, 47, 50, 52, 55, and 56. Each of these claims includes features directed to the identification of points in time in different perspectives by identifying or locating "offsets" in stored files that correspond to the different perspectives. As illustrated in Figure 11 of Appellants' drawings and described at pages 26-28 of the Specification, the identification or location of offsets involves the determination of the amount of bytes of information from the beginning of the stored files that contain the different perspectives.

We agree with Appellants (App. Br. 17-21; Reply Br. 7-14) that none of the cited portions of Jain '375, or the incorporated by reference Jain '471, provides any teaching or suggestion of the determination of perspective offset information as claimed. We find that the Examiner's analysis (Ans. 6, 7, and 11-13) simply does not explain where in the cited references a corresponding disclosure of perspective offset determination exists.

35 U.S.C. § 103(a) REJECTION

We sustain the Examiner's obviousness rejection, based on the combination of Jain '375 and Abecassis, of dependent claims 23 and 24. Appellants (App. Br. 21) have provided no separate arguments for the patentability of the rejected claims but, instead, have relied upon arguments presented against the anticipation rejection of independent claim 20. As discussed *supra*, we have found these arguments to be unpersuasive.

CONCLUSION

Based on the analysis above, we conclude that Appellants have not shown that the Examiner erred in rejecting claims 1-5, 7, 9, 10, 15, 17, 20-22, 23, 24, 26, 29-35, 39, 40, 43-46, 48, 49, 51, 53, and 54, but have shown the Examiner erred in rejecting claims 8, 11-14, 16, 18, 19, 25, 27, 28, 36-38, 41, 42, 47, 50, 52, 55, and 56.

DECISION

The Examiner's decision rejecting claims 1-5 and 7-56 under 35 U.S.C. § 102(e) is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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